

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, January 4, 2012
Time	Noon – 1:30 p.m.
Location	Utah State Capitol Complex, Senate Bldg., Copper Room
Members Present	Judge Kevin Allen, Patrick Anderson, Paul Boyden, David Brickey, Susan Burke, Curt Garner, Marlene Gonzalez, Ron Gordon, Rep. Richard Greenwood, Judge Thomas Low, Benjamin McMurray, Mark Moffat, Judge Ric Oddone, Judge Gregory Orme, Tom Patterson, Sy Snarr, Senator Dan Thatcher, Kirk Torgensen, Carlene Walker, Sheriff James Winder
Members Excused	Deween Durrant, Judge Janice Frost, Senator Ben McAdams, Chief Ed Rhoades, Rep. Jennifer Seelig,
Staff & Visitors	Staff: Jennifer Hemenway, Jo Lynn Kruse, Jacey Skinner, David Walsh Visitors: Susan Allred, Craig Barlow
Agenda Item	Welcome and Approval of Minutes
Notes	Carlene Walker called the meeting to order and welcomed everyone. Carlene noted that Deween Durrant will replace Doyle Talbot on the commission; however, she could not attend today. Sy Snarr made the motion to approve the November and December minutes. Judge Oddone seconded the motion which passed unanimously .
Agenda Item	Executive Committee
Notes	A vote was not taken at the December meeting to approve the names of the executive committee for the upcoming legislative session. Traditionally, the Sentencing Commission holds an executive meeting once a week with CCJJ during the legislative session to take positions on various pieces of legislation. Those attending on behalf of the Commission will officially include Carlene Walker, Paul Boyden, and Patrick Anderson. Additionally, Ron Gordon, Tom Patterson, Susan Burke and Kirk Torgensen will be present to provide input and take positions on legislation. The executive committee will take positions on legislation and then Jacey will send an email to the Commission and ask for additional input/feedback. David Brickey made the motion to approve those names listed above for the executive committee. Tom Patterson seconded the motion, which passed unanimously .
Agenda Item	Philosophy Statements
Notes	This agenda item moved to the April agenda.
Agenda Item	2012 Legislation (tape 4:17)
Notes	<p>Child Torture – Craig Barlow spoke about the Michelle Napolitano child abuse case from 2009. Napolitano's child was so badly abused that he had to have parts of his feet amputated. Napolitano, pleaded guilty to a second-degree felony count of intentionally inflicting serious bodily injury on a child, as well as five class A misdemeanor counts of intentionally inflicting serious bodily injury on a child.</p> <p>This legislation would increase "if done intentionally or knowingly", offense to a second degree felony rather than the current class A misdemeanor and "if done recklessly, the offense is a third degree felony, rather than the current class C misdemeanor and "if done with criminal negligence"; the offense is a class A misdemeanor rather than a class C.</p> <p>Discussion ensued questioning the wisdom of increasing a misdemeanor to a second degree felony. The Commission suggested adding additional wording such as "extreme" to justify the change and to define emotional abuse and to perhaps limit the increase in penalty to child torture. Craig will relay those comments to Rep. Derek Brown and continue to work on the legislation.</p> <p>SB 33, Trespassing on State Lands – (tape 39:30) This bill by Senator Dayton creates a new class B misdemeanor (rather than just trespassing) for a person to camp on sovereign lands at a single location for more than 15 days, return to camp at the</p>

	<p>same location before 15 days pass, moor or anchor a boat on sovereign lands at a single location for more than 15 days, or return to moor or anchor a boat at the same location before 15 days pass. Jacey is not sure of the origins of this bill, other than it comes from the Division of State Lands. In the absence of additional information regarding the intent of the sponsor of the bill, the Commission decided to take no position.</p> <p>HB 52, Victim's Rights – (tape 43:31) Kirk Torgensen discussed this bill sponsored by Rep. R. Curt Webb. The bill amends the Profits From Crime Memorabilia Act to include any profits received from criminal activity. HB 52 requires the prosecutor who obtained the conviction or the attorney general to bring a motion in the district court to request that any funds gained from criminal activity be paid to the Department of Corrections; and provides that the DOC shall pay: any victim restitution still owed out of the profit; and if no restitution is still owed, or after all restitution is paid, the remainder into the Crime Victim Reparations Fund. Concerns were expressed regarding the scope of the bill and the type of conduct it is intended to apply to. Paul Boyden made the motion to support the concept that a criminal does not benefit from his crime in any way. Senator Thatcher seconded the motion, which passed unanimously.</p> <p>HB 17, Sex Offender Registry Chapter – (tape 2:14) This bill, sponsored by Rep. Draxler, is a recodification of the Sex and Kidnap Offender Registry Chapter. It is not intended to make any substantive changes. Legislative Research thought that the Chapter was getting to be a bit confusing, so this is reorganization only. The DOC pointed out two areas where this inadvertently limits their rule-making authority, so this includes a few technical corrections. If any of you find anything else that is inadvertently changed, please let Jacey know. Kirk Torgensen made the motion to support this bill. Sheriff Winder seconded the motion which passed unanimously.</p> <p>Assault Amendments – This agenda item was not discussed.</p>
Agenda Item	Other
Notes	<p>The Annual Meeting is scheduled from 9am to 3:30 pm on April 4th, but the date may have to be changed.</p> <p>Please notify Carlene and Jacey if you have concerns about legislation so that it can be discussed at the Monday meetings.</p>
Next Meeting	The next meeting will be on April 4, 2012, Annual Meeting, location to be determined.

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ